

Serial No.: 10/675,056
Inventor(s): Green et al.

U.S. PTO Customer No. 25280
Case No.: 5633

REMARKS

The Office Action dated May 27, 2005, included the following rejections, objections, and comments:

1. Claims 1-20 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of copending Application No. 10/675,062.
2. Claims 1-20 were rejected under 35 USC § 102(e) as being unpatentable over US 6,768,086 (Sullivan) in view of Dutt.

In response to these rejections, objections, and comments, and in view of the above Amendments, Applicant provides the following Remarks:

1. Provisional Double Patenting Rejection.

Claims 1-20 were provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-26 of copending Application No. 10/675,062. Application 10/675,062 was expressly abandoned October 11, 2005. Therefore, Applicant thus provides the double patenting rejection has become moot.

2. Rejection of Claims 1-20 under 35 USC § 103(a)

Claims 1-20 were rejected under 35 USC § 102(e) as being unpatentable over Sullivan in view of Dutt.

a) Dutt is Non-Analogous Art

Applicants respectfully submit that Dutt is non-analogous art to the present invention. In order for a reference to be analogous art, the reference must either be from the same field of endeavor, regardless of the problem addressed, or reasonably pertinent to the particular problem with which the inventor is involved. *In re Clay*, 966 F.2d 856; 23 USPQ2d 1058 (Fed. Cir. 1992). Dutt is directed to resin-impregnated belts for use on papermaking machines. In contrast, the present invention is directed to the electrical connection of flexible conductive strands in a flexible body. The Applicants respectfully submit that the issues surrounding the design of a belt for papermaking is substantially different from the issues surrounding the design of flexible heaters. Therefore, Applicants respectfully submit that Dutt is not directed to the same field of endeavor as the claimed invention.

The problem addressed by Dutt is to provide a papermaking belt that has an open weave such that the outer surface and inner surface of the belt may be coated with resin without having

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to turn the belt inside out and with fewer air bubbles. In contrast, the problem addressed by the present invention is to create a flexible heater with electrical connections of flexible conductive strands. The Applicants respectfully submit that a person trying to create electrical connections in a flexible heater would not reasonably look to art trying to create a resin coated paper processing belt.

As can be seen from the divergent fields (papermaking belt vs. flexible heater) and the different purposes of Dutt and the present invention, Dutt is non-analogous art. Therefore, the Applicants respectfully submit that Dutt should not be considered in an obviousness type rejection.

b) No Teaching, Motivation, or Suggestion to Combine the Cited Prior Art

Even if Dutt could be considered analogous art, the Applicants respectfully submit that there is no teaching, suggestion, or motivation to combine Sullivan with Dutt. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. *In re Mills*, 916 F.2d 860, 16 USPQ2d 1430, 4132 (Fed. Cir. 1990). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Sullivan is directed towards a warming blanket with the incorporation of independent heating and temperature control elements, wire arrangements in a warming blanket, and a microcomputer to control the elements. Different arrangements of the heating wires and temperature sensing strands across the blanket are disclosed, but there is no teaching or suggestion that there is a need to have conductive strands held in connection by any particular means such as the type of weave. Also, there is no teaching, suggestion, or motive in Dutt to use the leno weave for holding connections in place in a conductive textile or with conductive strands.

The only teaching, suggestion, or motive for such modifications comes from the Applicant's own disclosure. Only by hindsight use of the present invention is this combination suggested. It is impermissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). For these reasons, the Applicants respectfully submit that the claimed invention is not obvious over Sullivan in view of Dutt.

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In view of the forgoing amendments and remarks, the Examiner is respectfully requested to withdraw the outstanding rejection and to pass the subject application to Allowance. Should the Examiner find that any issues remain outstanding following consideration of this Response, he/she is invited to telephone the undersigned in the interest of resolving such matters in an expedient manner.

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Respectfully submitted,



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